



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF  
(AE-17J)

MAR 31 2006

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Gary Wyshel, Executive Vice President  
Flavorchem Corporation  
1525 Brook Drive  
Downers Grove, Illinois 60515

Re: Notice of Violation/Finding of  
Violation Flavorchem Corporation

Dear Mr. Wyshel:

The United States Environmental Protection Agency (U.S. EPA) is issuing the enclosed Notice of Violation (NOV)/Finding of Violation (FOV) to Flavorchem Corporation (you) under Section 113(a)(1) and (a)(3) of the Clean Air Act, 42 U.S.C. § 7413(a)(1) and (a)(3). We find that you are violating the Illinois State Implementation Plan (SIP) and Title V permitting requirements at your Downers Grove, Illinois facility.

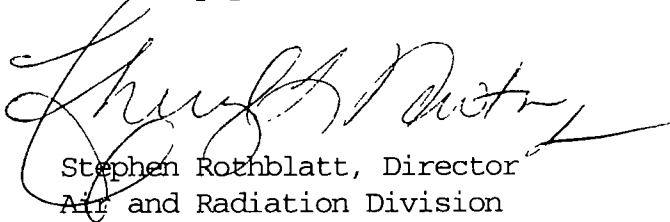
Section 113 of the Clean Air Act gives us several enforcement options. These options include issuing an administrative compliance order, issuing an administrative penalty order, and bringing a judicial civil or criminal action. The options we select may depend on, among other things, the length of time you take to achieve and demonstrate continuous compliance with the rules cited in the NOV/FOV.

We are offering you an opportunity to confer with us about the violations alleged in the NOV/FOV. The conference will give you an opportunity to present information on the specific findings of violation, any efforts you have taken to comply, and the steps you will take to prevent future violations.

Please plan for your facility's technical and management personnel to attend the conference to discuss compliance measures and commitments. You may have an attorney represent you at this conference.

The contact in this matter is Ms. Kathy Memmos. You may call her at (312) 353-4293 to request a conference. You should make the request as soon as possible, but no later than 10 calendar days after you receive this letter. We should hold any conference within 30 calendar days of your receipt of this letter.

Sincerely yours,



Stephen Rothblatt, Director  
Air and Radiation Division

cc: Julie Armitage, Chief  
Compliance and Systems Management Section  
Illinois Environmental Protection Agency

Joe Kotas, Bureau of Air  
Illinois Environmental Protection Agency

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

<b>IN THE MATTER OF:</b>	)	
	)	<b>NOTICE AND FINDING</b>
<b>Flavorchem Corporation</b>	)	<b>OF VIOLATION</b>
<b>Downers Grove, Illinois</b>	)	
	)	<b>EPA-5-06-IL-15</b>
	)	
PROCEEDING PURSUANT TO SECTION	)	
113(a)(1) OF THE CLEAN AIR ACT, AS	)	
AMENDED, 42 U.S.C. § 7413(A)(1) and	)	
<u>(A)(3)</u>	)	

**NOTICE AND FINDING OF VIOLATION**

This Notice of Violation/Finding of Violation is issued pursuant to Section 113(a)(1) and (a)(3) of the Clean Air Act (Act), 42 U.S.C. Section 7413(a)(1) and (a)(3). You are hereby notified that the Administrator of the United States Environmental Protection Agency (U.S. EPA), by authority duly delegated to the undersigned, hereby notifies Flavorchem Corporation (Flavorchem), that it is in violation of the Illinois State Implementation Plan (SIP) and Title V requirements, as follows:

**STATUTORY AND REGULATORY BACKGROUND**

**Requirements for SIP Construction and Operating Permits**

1. U.S. EPA approved the Illinois Pollution Control Board (IPCB) Rule 103 as part of the federally enforceable Illinois State Implementation Plan (SIP) on May 31, 1972. 37 Fed. Reg. 10862.
2. IPCB Rule 101 defines a "new emission source" as any emission source that commences construction or modification on or after the effective date of this Chapter (April 14, 1972). Due to renumbering of the IPCB Rules, Rule 101, as approved by U.S. EPA, is currently set forth at Illinois Administrative Code (IAC) § 201.102.
3. IPCB Rule 103(a)(1) states that no person shall cause or allow the construction of any new emission source or any new air pollution control equipment, or cause or allow the modification of any existing emission source of air pollution control equipment, without first obtaining a construction permit from the Agency. Due to renumbering of the IPCB Rules, Rule 103 (a)(1), as approved by U.S. EPA, is currently set forth at IAC, § 201.142.

4. IPCB Rule 103(b)(1) states that no person shall cause or allow the operation of any new emission source or new air pollution control equipment, for which a construction permit is required, without first obtaining an operating permit from the Agency. Due to renumbering of the IPCB Rules, Rule 103 (b)(1), as approved by U.S. EPA, is currently set forth at IAC, § 201.143.

#### Part 81 Subpart C Section 107 Attainment Status Designations

5. The Clean Air Act Amendments of the 1990 authorized EPA to designate areas nonattainment and to classify them according to degree of severity. Classification, in turn, triggered a set of control requirements designated to bring areas into attainment by their specified attainment dates.
6. On November 6, 1991 U.S. EPA designated areas for the national ambient air quality standards (NAAQS) which became effective on January 6, 1992. 56 Fed. Reg. 56694. This rulemaking set forth the attainment status, including designations and classifications for selected areas affected by the ozone, carbon monoxide, particulate matter (PM), and lead for the NAAQS. Since 1992, DuPage County of Illinois has been designated as "severe" nonattainment for the 1-hour ozone standard.
7. On April 30, 2004, U.S. EPA published the 8-hour ozone designation for all areas of the country. 69 Fed. Reg. 23858.
8. Under the 8-hour ozone standard, DuPage County of Illinois is moderate nonattainment for ozone, effective June 15, 2004.
9. On August 3, 2005, U.S. EPA revoked the 1-hour ozone standard and deferred to the new 8-hour ozone standard, effective June 15, 2005. 70 Fed. Reg. 44470.

#### Requirements for Title V Operating Permits

10. Section 502(a) of the Act, 42 U.S.C. § 7661a(a), provides that no source subject to Title V may operate without a Title V permit after the effective date of any permit program approved or promulgated under Title V of the Act.
11. 40 C.F.R. § 70.7(b) provides that no source subject to Part 70 requirements may operate without a permit as specified in the Act.

12. Section 503(c) of the Act, 42 U.S.C. § 7661b(c), sets forth the requirement to timely submit an application for a permit, including required information.
13. 40 C.F.R. § 70.5(a) provides that an owner or operator shall submit a timely and complete permit application in accordance with Part 70 requirements.
14. 40 C.F.R. § 70.2 defines a "major source" for ozone nonattainment areas as sources with the potential to emit 100 tons per year (tpy) or more of volatile organic compounds (VOCs) or oxides of nitrogen in areas classified as "marginal" or "moderate," 50 tpy or more in areas classified as "serious," 25 tpy or more in areas classified as "severe," and 10 tpy or more in areas classified as "extreme".
15. U.S. EPA promulgated interim approval of the Illinois Title V program on March 7, 1995 (60 Fed. Reg. 12478), and the program became effective on that date. U.S. EPA granted final full approval of the Illinois Title V program effective November 30, 2001. See 40 C.F.R. Part 70, Appendix A.

#### Requirements for the Emissions Reduction Market System (ERMS)

16. On October 12, 2001, U.S. EPA approved 35 IAC Part 205, Emissions Reduction Market System (ERMS) with an effective date of November 14, 2001, as part of the federally enforceable SIP for Illinois. 66 Fed. Reg. 52359. This rule establishes a trading program for major sources of VOC emissions.
17. 35 IAC § 205.200 states that any source operating prior to May 1, 1999, located in the Chicago ozone nonattainment area, is a participating source if the source is required to obtain a Clean Air Act Permit Program (CAAPP) permit; and has baseline emissions of at least 10 tons, as specified in Section 205.320(a) of this Part, or seasonal emissions of at least 10 tons in any seasonal allotment period beginning in 1999.
18. 35 IAC § 205.200(a) states each participating source shall hold Allotment Trading Units (ATUs), as specified in Section 205.150(c) of this Part, that has baseline emissions of at least 10 tons of VOM, as determined in

accordance with Section 205.320(a) of this Part, beginning with the 1999 seasonal allotment period.

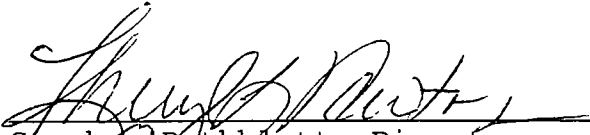
#### **FINDINGS OF FACT**

19. Flavorchem owns and operates a food flavoring, extracting and fragrance manufacturing facility (facility) located at 1525 Brook Drive, Downers Grove, DuPage County, Illinois.
20. The facility operates, among other things, a megablender in the dry mixing area, a packaging room and a vanilla concentrate unit. These are "new emission sources".
21. As a "new emission source," Flavorchem is subject to the construction and operating permit requirements of IAC Part 201.142 and 201.143.
22. Flavorchem has been operating at its Downers Grove facility for over 28 years. Flavorchem has never applied or received a construction or operating permit for its Downers Grove facility.
23. On March 9, 2005, U.S. EPA issued a Request for Information to Flavorchem under Section 114 of the Act. The Request for Information required Flavorchem to conduct stack testing on all emission sources at its Downers Grove facility to determine total VOCs and PM emissions.
24. Flavorchem conducted the requested testing on August 23-26, 2005; September 15, 16 and 30, 2005; October 14, 2005 and on November 18, 2005.
25. Flavorchem submitted the results of these tests in a final report to U.S. EPA on January 4, 2006.
26. The testing performed by Flavorchem indicates that the Downers Grove facility has the potential to emit greater than 25 tpy of VOCs and is a major source for VOCs.
27. The testing performed by Flavorchem indicated that the Downers Grove facility has baseline emissions greater than 10 tons of VOCs.
28. As a major source of VOCs prior to June 15, 2005, Flavorchem is subject to the Title V permit requirements in Sections 502 and 503 of the Act, 42 U.S.C. §§ 7661a and 7661b, and 40 C.F.R. §§ 70.7(b) and 70.5(a).

**VIOLATIONS**

29. Flavorchem failed to obtain construction and operating permits for its megablender, packaging room and vanilla concentrate units, in violation of IPCB Rules 103(a)(1) and 103 (b)(1) (now known as the IAC Part 201.142 and 201.143) and Section 110 of the Act, 42 U.S.C. § 7410.
30. Flavorchem failed to timely submit an application for a Title V permit, in violation of Section 503(c) of the Act, 42 U.S.C § 7661b(c), and 40 C.F.R. § 70.5(a).
31. Flavorchem operated without a Title V operating permit, in violation of Section 502(a) of the Act, 42 U.S.C. § 7661a(a), and 40 C.F.R. § 70.5(b).
32. Flavorchem failed to participate and obtain ATUs, in violation of 35 IAC § 205.200 and 205.200(a).

3/31/00  
Date

  
Stephen Rothblatt, Director  
Air and Radiation Division

**CERTIFICATE OF MAILING**

I, Shanee Rucker, certify that I sent a Notice of Violation,  
EPA-5-06-IL-15, by Certified Mail, Return Receipt Requested, to:

Mr. Gary Wyshel, Executive Vice President  
Flavorchem Corporation  
1525 Brook Drive  
Downers Grove, Illinois 60515

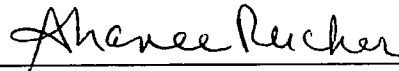
I also certify that I sent copies of the Notice of Violation by  
first class mail to:

Julie Armitage, Chief  
Compliance and Systems Management Section  
Illinois Environmental Protection Agency  
1021 North Grand Avenue  
Springfield, Illinois 62702

And

Joe Kotas, Bureau of Air  
Illinois Environmental Protection Agency  
9511 West Harrison Street  
Des Plaines, Illinois 60016

on the 31 day of March, 2006.



Shanee Rucker  
Administrative Assistant  
AECAS, (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 7001 0320 0005 8919 3475